

BEFORE THE IDAHO BOARD OF TAX APPEALS

IN THE MATTER OF THE APPEAL OF HAASCH-
WHITESEL TRUST from the decision of the Board of
Equalization of Valley County for the tax year 2007.

) APPEAL NO. 07-A-2631
) FINAL DECISION AND
) ORDER

COTTAGE SITE APPEAL

NOTICE OF APPEAL was filed September 6, 2007, by Appellant, from a decision of the Valley County Board of Equalization denying the protest of the valuation for taxing purposes of property described as Parcel No. XR19N03E346440A. As a matter of convenience, Appellant requested that this appeal be heard on the written record of evidence and argument presented, without appearance at a hearing. This Board subsequently requested that all information and evidence to be considered be submitted by both parties. The Board now issues its decision based upon the documentary record.

The issue on appeal is the value of a leased State land cottage site.

The decision of the Valley Board of Equalization is affirmed.

FINDINGS OF FACT

The total assessed land value is \$1,316,000. Appellant requests the land value be reduced to \$200,000.

The subject property consists of 71 rounded lake front feet with a total of 0.354 acres, improved with a home. Subject is located on the lakeshore of the Payette Lake peninsula.

Appellants maintained the assessed value of subject property for tax year 2007 was too high. According to Taxpayers there was a 70% increase in the assessed value of subject from tax year 2006 to tax year 2007.

The subject property is located within the boundaries of Ponderosa State Park. The lease for subject was entered into on June 1, 2001 with the Department of Parks and Recreation. Unlike standard Land Board and Parks Department leases, the lease on subject has a defined

termination date with the possibility of only one ten year extension. Appellants cannot sell or exchange the lease. The rental rate for subject is \$3,100 per year, \$1,000 of which is applied to the eventual purchase price of the improvement located on subject. The rental rate is subject to a 15% increase over the next term.

Taxpayers asserted that no properties would be comparable to subject because, unlike most properties, Appellants cannot sell the leasehold. The properties presented by Assessor were not comparable, contested Taxpayers, because they were sold properties and subject cannot be sold.

The following negative characteristics were cited by Appellants. First, subject has no access to county amenities except for the sewer district. No gas is available to subject and all water is supplied by the Park through a pipe from a contiguous property. Both water and sewer are only available from June 1 to October 1. Next, the road on which subject is located is not an accessible county road, and is not plowed for winter use. Due to the restricted time in which water and sewer are available and the lack of accessibility in the winter subject is only usable for four months out of the year, unlike other lake properties which have year round access.

In addition to the above factors, Appellants stated that subject is only fifty feet across and ninety feet deep, which is smaller than almost any other lake lot, and there is no sidewalk or neighborhood by subject. Also, the beach is shared with the Ponderosa Park and campers use the beach as part of the park and continually traipse through the back part of it and create noise. Taxpayers stated that the County approached the valuation of subject as if it was fee simple land, and the above mentioned factors would affect the value of any fee simple property.

The Assessor stated that subject is located on the shore of Payette Lake, which is a pristine and natural lake with limited property availability. Subject has a panoramic view of the mountains and lakes and a relatively level topography. The beach is sandy and it is naturally

protected.

County stated that originally there had been a 3% per month time adjustment added to the assessment, but it was discovered that the assessment was in error and a second assessment was issued.

To assess Payette Lake front properties, a standard lot ,100 front feet, 225 feet deep, with 400 feet of effective depth was established as a base. Subject property has 15,415 square feet and has 71 (rounded) front feet with an effective depth of 217 feet. The property is assessed for \$18,548 per front foot. Since subject is not a standard lot a -7% adjustment was applied. Nearly all lake front properties had some sort of adjustment placed on them.

The Assessor placed a value on subject for the Payette Lake Sewer and Water to collect fees, as is done with other properties within the district.

The County presented ten property sales to support the assessed value of subject. These sale properties ranged in front feet from 56 to 217 feet, with a price of \$11,077 to \$27,501 per front foot. The sale prices less improvements ranged from \$1,061,610 to \$2,639,460 and the new assessed land values ranged from \$1,086,400 to \$3,774,440. The assessed values were compared to the sale prices to indicate an assessment level or ratio of 1.002%

CONCLUSIONS OF LAW

This Board's goal in its hearings is the acquisition of sufficient, accurate evidence to support a determination of fair market value. This Board, giving full opportunity for all arguments and having considered all testimony and documentary evidence submitted by the parties in support of their respective positions, hereby enters the following conclusions.

Idaho is a market value state for property tax purposes.

Idaho Code § 63-201. Definitions --

(10) "Market value" means the amount of United States dollars or equivalent for which, in all probability, a property would exchange hands between a willing seller,

under no compulsion to sell, and an informed, capable buyer, with a reasonable time allowed to consummate the sale, substantiated by a reasonable down or full cash payment.

Idaho Code also mandates the County Assessor establish the value of each cottage site as compared to like property. In addition the statute requires the Assessor value the cottage sites as if they were held in private ownership.

39-3635. COTTAGE SITE LEASES -- REQUIREMENTS -- CONSTRUCTION OF SEWAGE DISPOSAL FACILITIES -- CONNECTION TO WATER AND SEWER DISTRICT SYSTEMS -- PAYMENT OF CHARGES -- NOTIFICATION OF DEFAULTS -- SATISFACTION OF REQUIREMENTS. (1) After the effective date of sections 39-3634 through 39-3639, Idaho Code, all cottage site leases authorized by the state of Idaho shall require that each lessee must construct, at his cost and expense, sewage disposal facilities, certified by the director of the department of environmental quality as adequate, as follows: ...

(3) Notwithstanding that title to a cottage site remains in the state of Idaho, each cottage site lessee shall pay to any district operating a sewer system to which the cottage site is connected as provided in subsection (2) of this section, each year in the same manner and at the same time as county taxes are paid and collected a sum of money in lieu of taxes equal to the sum which would have been paid had the cottage site been held in private ownership, hereinafter called special benefits payments. The special benefits payments shall be computed by applying the millage levy of the district to the cottage site in the ordinary course to the assessed valuation of the property as determined by the county assessor of the county in which the cottage site is located. No special benefits payments shall be imposed prior to January 1, 1980. The cottage site lessee shall have such rights of protest, hearings and appeals with respect to the valuation of the cottage site for purposes of determining the special benefits payments as if such cottage site were held in private ownership. It shall be the duty of the county assessor to establish the value of each cottage site as compared to like property upon the request, in writing, of the district...

In this case we find subject cabin site must be valued as fee simple ownership. The County presented 10 sales to determine the price per front foot of lake front property, then applied negative adjustments to the model lot base for differences in specific lots, like subject.

No sales were submitted by Appellants to support the claimed reduction of subject assessment to \$200,000.

“The value of property for purposes of taxation as determined by the assessor is presumed to be correct; and the burden of proof is upon the taxpayer to show by [a preponderance of the] evidence that he is entitled to the relief claimed.” Board of County Comm’rs of Ada County v. Sears, Roebuck & Co., 74 Idaho 39, 46-47, 256 P.2d 526, 530 (1953).

Therefore, we find Appellants have not sufficiently supported the claim for relief. The decision of the Valley County Board of Equalization is affirmed.

FINAL ORDER

In accordance with the foregoing Final Decision, IT IS ORDERED that the decision of the Valley County Board of Equalization concerning the subject parcel be, and the same hereby is, affirmed.

MAILED April 30, 2008